UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.
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LONG ISLAND OFFICE

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JOHN MEDFORD, et al.,

Plaintiffs,

– against –

CSEA LOCAL 1000, et al.,

Defendants.

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ORDER
17-CV-11 (JFB)

JOSEPH F. BIANCO, District Judge:

The Court has received plaintiffs' letter motion for a temporary restraining order to stay a union vote to be held on January 4, 2017. As a threshold matter, the letter motion is procedurally defective in that, *inter alia*, there is no indication it has been served on the defendants and it does not have a formal motion or memorandum of law to support the requested relief. In any event, based upon the current submission, plaintiffs have failed to demonstrate irreparable harm for a temporary restraining order, as required under the law.

Generally, to obtain a temporary restraining order, a plaintiff must show that (1) he will suffer irreparable harm if the TRO is not issued and (2) either (a) that he is likely to succeed on the merits of his claim; or (b) that there are sufficiently serious questions going to the merits to make them fair ground for litigation, and that the balance of hardships tips decidedly in favor of the moving party. *Tang Capital Partners, LP v. Cell Therapeutics, Inc.*, 591 F. Supp. 2d 666, 670 (S.D.N.Y. 2008); *accord Syler v. Woodruff*, 610 F. Supp. 2d 256, 262 (S.D.N.Y. 2009); *Foley v. State Elections Commission*, No. 3:10cv1091 (SRU), 2010 WL 2836722, at *3 (D. Conn. July 16, 2010). A TRO "is an 'extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.'" *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Reidy*, 477 F. Supp. 2d 472, 474 (D. Conn. 2007) (quoting *Moore v. Consol. Edison Co. of N.Y., Inc.*, 409 F.3d 506, 510 (2d Cir. 2005)). "In the Second Circuit, the standard for a temporary restraining order is the same as for a preliminary injunction." *Hogan v. Fischer*, No. 09-CV-6225-CJS-JWF, 2009 WL 4042266, at *1 (W.D.N.Y. Nov. 19, 2009) (citing *Jackson v. Johnson*, 962 F. Supp. 391, 392 (S.D.N.Y. 1997)).

Here, plaintiffs have failed to articulate why, assuming the Court has the authority to intervene and that they will prevail on the merits because the vote is procedurally and substantively defective, the Court could not subsequently void the results of the vote and order that the union conduct a new vote. *See, e.g., Chevalier v. Civil Service Employees Association*, No. 1:10-CV-446 (FJS/DRH), 2011 WL 1298739, at *4 (N.D.N.Y. March 31, 2011) (denying injunction on union vote because, among other things, "Plaintiffs fail to explain why, if they are ultimately successful, the Court could not fashion a remedy that would void the elections and allow them to exercise their membership rights."). Accordingly, the letter motion for a temporary restraining order is denied due to the failure to demonstrate irreparable harm.

SO ORDERED.

s/Joseph F. Bianco

JOSEPH F. BIANCO
UNITED STATES DISTRICT JUDGE

Dated: January 3, 2017
Central Islip, New York